

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

**JAMES A. MORRISON,**

**Case No. 3-:09-cv-009**

**Plaintiff,**

**-vs-**

**District Judge Thomas M. Rose  
Magistrate Judge Michael R. Merz**

**OFFICER MARTIN K. GREENWALD,  
et al.,**

**Defendants.**

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**ENTRY AND ORDER OVERRULING MORRISON'S OBJECTIONS (Doc.  
#43) TO THE MAGISTRATE JUDGE'S REPORT AND  
RECOMMENDATIONS AND ADOPTING THE MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATIONS (Doc. #42) IN ITS ENTIRETY**

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Plaintiff James A. Morrison ("Morrison") brought this action *pro se* against Martin K. Greenwald ("Greenwald"), Marshall T. Howard ("Howard") and George J. Kloss ("Kloss"). Greenwald, Howard and Kloss were, at the time, corrections officers at the Montgomery County Jail.

Greenwald, Howard and Kloss moved for summary judgment based upon their entitlement to qualified immunity. Morrison's Response to this Motion seeks summary judgment in his favor.

On February 24, 2010, Magistrate Judge Merz filed a Report and Recommendations recommending that summary judgment be granted to Howard and Kloss and that summary judgment to Morrison be denied. Morrison objected to this Report and Recommendations. (Doc. #43.) Greenwald, Howard and Kloss did not object to the Report and Recommendations but did respond to Morrison's objections. (Doc. #44.)

The District Judge has made a de novo review of the record and applicable legal authority on this matter pursuant to 28 U.S.C. § 636(b) and Fed.R.Civ.P. 72(b). Based upon the aforesaid review, Morrison's Objections to the Magistrate Judge's Report and Recommendations are OVERRULED. Further, summary judgment is granted to Howard and Kloss and summary judgment to Morrison is denied. Finally, Morrison's excessive force claim against Greenwald remains to be adjudicated.

**DONE** and **ORDERED** in Dayton, Ohio, this Twenty-Third Day of March, 2010.

s/**Thomas M. Rose**

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

James A. Morrison at his last known address of record  
Counsel of Record